

Remarks

Applicants respectfully request favorable reconsideration of this application.

With reference to the Remarks in the Amendment dated July 20, 2005, Applicants respectfully reiterate their earlier request for an updated return copy of Form PTO-1449 to confirm that the replacement documents submitted with the Amendment have been considered.

In the outstanding final Office Action, the initial claim rejections under 35 U.S.C. §§ 102 and 103 were repeated on the asserted basis that the claims at issue are not supported by Applicants' provisional Application No. 60/393,835 filed July 8, 2002. More particularly, the final Office Action asserted that the '835 application does not support the claim recitations limiting specified parameters of the invention to 8 diametral lattice planes or less.

However, the claim limitations to 8 diametral lattice planes or less are clearly supported by the '835 application. The '835 application explicitly discloses a compositional boundary extending over less than 10 diametral lattice planes. See, for example, page 6, lines 16-17 of the '835 application, and note also Claims 6, 17, and 65 of therein. A more preferred range of 1 to 3 diametral lattice planes is

also disclosed. See, e.g., page 13, line 20, page 22, lines 25-26 and 29, Claim 6, and Claim 22.

The aforementioned disclosures of the '835 application thus fully support a range of 1 to 10 diametral lattice planes. That Applicants have claimed a specific portion of this range (less than 8 diametral lattice planes) does not negate support for the claims. It is entirely permissible for Applicants to claim a portion of the supported range.

The present claim limitations to less than 8 diametral lattice planes, thus being supported by the disclosure of the '835 application, are entitled to the benefit of the '835 application filing date. Consequently, in view of the earlier filed Declaration by the inventors under 37 C.F.R. § 1.132, the Bjork et al. article, cited in the rejections under §§ 102 and 103, does not constitute prior art to the claims at issue.

It is therefore respectfully urged that the rejections under §§ 102 and 103 be withdrawn and that this application now be passed to issue.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and

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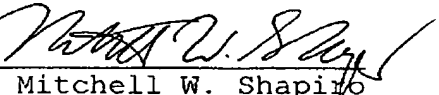
has not been requested separately, such extension is hereby requested.

Respectfully submitted,

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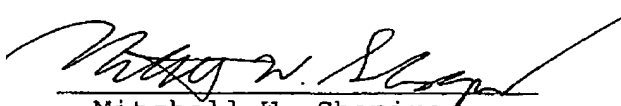
By:

  
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Reg. No. 31,568

February 23, 2006

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on February 23, 2006.

  
Mitchell W. Shapiro